

1  
2  
3 **THE HONORABLE RICARDO S. MARTINEZ**  
4  
5  
6

7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 v.  
13 HUAWEI DEVICE CO., LTD., and  
14 HUAWEI DEVICE USA, INC.,  
15 Defendants.

16 CASE NO. 2:19-cr-00010-RSM  
17 **STIPULATED MOTION FOR TRIAL  
CONTINUANCE**  
18 **NOTED FOR HEARING:**  
19 **Wednesday, January 18, 2023**

20 **I. INTRODUCTION.**

21 IT IS HEREBY REQUESTED by and between the United States of America, by Assistant  
22 United States Attorneys Todd Greenberg and Thomas M. Woods, and the defendants, HUAWEI  
23 DEVICE CO., LTD., and HUAWEI DEVICE USA, INC., by and through their undersigned  
24 attorneys, that the trial date in the above-captioned matter be continued until October 28, 2024,  
25 and that the Court enter the proposed Fifth Amended Case Scheduling Order.

26 **II. THE REASONS SUPPORTING THE REQUESTED TRIAL CONTINUANCE.**

27 In February 2022, at the request of the parties, the Court continued the trial in this matter,  
28 set a new trial date of October 16, 2023, and entered the Fourth Amended Case Scheduling Order.  
29  
30 *See Dkt. 86.*

31 STIPULATED MOTION  
32 FOR TRIAL CONTINUANCE - 1  
33 CASE NO. 2:19-cr-00010-RSM

34 **GOLDFARB & HUCK  
35 ROTH RIOJAS, PLLC**  
36 925 Fourth Avenue, Suite 3950  
37 Seattle, Washington 98104  
38 (206) 452-0260

1 For the reasons set forth below, the parties are now requesting that the Court grant this joint  
 2 request for another one-year continuance of the trial date. As this Court has recognized in its  
 3 numerous General Orders, the outbreak of the Coronavirus Disease 2019 (COVID-19) has had a  
 4 significant impact in the Western District of Washington and elsewhere throughout the United  
 5 States and worldwide, including in China. This has had, and will continue to have, a substantial  
 6 adverse effect on the ability of counsel to prepare for the trial and pretrial litigation in this case.  
 7 The virus has made it difficult for defense counsel to communicate and coordinate with their clients  
 8 and potential witnesses, many of whom are located in various cities in China. Additionally, the  
 9 pandemic makes it impossible for the parties to schedule trial preservation depositions, pursuant  
 10 to Federal Rule of Criminal Procedure 15, of the numerous witnesses who are currently living in  
 11 China and elsewhere. Indeed, the U.S. State Department issued a Level 3: Reconsider Travel  
 12 advisory for China on December 23, 2022, urging travelers to reconsider traveling to China due  
 13 to, among other things, the “surge in COVID-19 cases” and “COVID-19-related restrictions.”<sup>1</sup>  
 14 This travel advisory is still active.

15 Due to continuing travel restrictions, together with the continuing risk of infection with  
 16 COVID-19 in China and elsewhere, among other things, it is impractical for witnesses to travel  
 17 from China to a third country for depositions. Similarly, it is not practical at this time for numerous  
 18 witnesses to engage in international travel to the Western District of Washington for purposes of  
 19 testifying at a trial and/or pretrial hearings.

20 Furthermore, as this Court has previously noted, this case involves a very large volume of  
 21 discovery materials and the charges in the Indictment are complex. The complexity of this matter  
 22 was amplified in February 2020, upon the return of a superseding indictment in the case of *United*  
 23 *States of America v. Huawei Technologies Co., Ltd., et al.*, CR18-457, in the Eastern District of  
 24 New York. That indictment contains allegations brought against the same Huawei corporate  
 25 defendants that are charged in the indictment filed in the Western District of Washington.

27  
 1 <sup>1</sup> See <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/china-travel-advisory.html>.  
 STIPULATED MOTION  
 FOR TRIAL CONTINUANCE - 2  
 CASE NO. 2:19-cr-00010-RSM

Moreover, some of the allegations in the superseding indictment filed in the Eastern District of New York are directly related to the charges contained in the indictment filed in the Western District of Washington. The discovery process remains ongoing in the Eastern District of New York.

The parties submit that, given the complexity of the charges contained in the Indictment, and due to the events discussed above, it would be unreasonable to expect adequate preparation for pre-trial proceedings and for the trial itself without a continuance of the trial and pre-trial motions dates. *See* 18 U.S.C. § 3161(h)(7)(B)(ii).

For all of the above reasons, in view of the complexity and nature of this prosecution, and the parties' need for additional time to prepare for and to complete pre-trial litigation, this Court may find, pursuant to Title 18, United States Code, Section 3161(h)(7)(A) and (B), that the ends of justice served by continuing the trial in this case outweigh the interest of the public and of the defendants in a more speedy trial, and thus that a continuance is appropriate for the reasons stated above.

The undersigned counsel have consulted with the defendant organizations regarding the necessity for a continuance of the trial date, and the defendants acknowledge and agree to the requested continuance for the above stated reasons.

### III. CONCLUSION.

WHEREFORE, for the reasons set forth herein, the parties to this motion request that the trial date in the above-captioned matter be continued until October 28, 2024, and that the Court enter the proposed Fifth Amended Case Scheduling Order.

STIPULATED MOTION  
FOR TRIAL CONTINUANCE - 3  
CASE NO. 2:19-cr-00010-RSM

**GOLDFARB & HUCK  
ROTH RIOJAS, PLLC**  
925 Fourth Avenue, Suite 3950  
Seattle, Washington 98104  
(206) 452-0260

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of January, 2023.

## UNITED STATES ATTORNEY'S OFFICE

/s/ *Todd Greenberg*  
Todd Greenberg  
(todd.greenberg4@usdj.gov)  
Thomas M. Woods  
(thomas.woods2@usdogj.gov)  
700 Stewart Street, Ste. 5220  
Seattle, Washington 98101  
Phone: (206) 553-7970

### Attorneys for Plaintiff

## **GOLDFARB & HUCK ROTH RIOJAS, PLLC**

/s/ Robert Westinghouse  
Robert Westinghouse, WSBA No. 6484  
[\(westinghouse@goldfarb-huck.com\)](mailto:westinghouse@goldfarb-huck.com)  
925 Fourth Avenue, Suite 3950  
Seattle, Washington 98104  
Phone: (206) 452-0260

# STEPTOE & JOHNSON

/s/ James Hibey  
James Hibey, *admitted Pro Hac Vice*  
([jhibey@steptoe.com](mailto:jhibey@steptoe.com))  
/s/ Brian Heberlig  
Brian Heberlig, *admitted Pro Hac Vice*  
([bheberlig@steptoe.com](mailto:bheberlig@steptoe.com))  
1330 Connecticut Avenue NW, Ste. 662  
Washington, DC 20036  
Phone: (202) 429-8134

## Attorneys for Defendants

STIPULATED MOTION  
FOR TRIAL CONTINUANCE - 4  
CASE NO. 2:19-cr-00010-RSM

**GOLDFARB & HUCK  
ROTH RIOJAS, PLLC**  
925 Fourth Avenue, Suite 3950  
Seattle, Washington 98104  
(206) 452-0260

## **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically with the Clerk of the Court using the CM/ECF system on January 18, 2023 and was served via the Court's CM/ECF system on all counsel of record.

DATED this January 18, 2023.

/s/ Robert Westinghouse  
Robert Westinghouse, WSBA No. 6484

STIPULATED MOTION  
FOR TRIAL CONTINUANCE - 5  
CASE NO. 2:19-cr-00010-RSM

**GOLDFARB & HUCK  
ROTH RIOJAS, PLLC**  
925 Fourth Avenue, Suite 3950  
Seattle, Washington 98104  
(206) 452-0260